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ABSTRACT

The Telecommunications Act of 1996 constitutes a major overhaul of telecommunications law and will have a major impact on rural residents, communities, schools, libraries, and hospitals. This paper presents 68 key points from the Federal Communication Commission's Universal Service Report and Order, Section X: Schools and Libraries, which contains recommendations for implementation of the Telecommunications Act of 1996. Areas covered are how much of a discount schools and libraries will receive on telecommunications services; what telecommunications services and hardware are eligible for discounts; to what extent those services can be "bundled"; the role of the states in the discount program; whether individual schools, districts, consortia, or entire states can apply for discounts; requirements for competitive bidding; factors besides price to be considered in selecting a bid; requirements of telecommunications carriers to provide service at the lowest corresponding price; clarification of definitions of "lowest corresponding price" and "rural"; relationship of cost-of-service area to discount levels; mechanisms for determining the level of poverty for purposes of the universal service discount program; calculating a library's level of poverty; the relationship of the level of annual spending of the Universal Service Fund to the next year's funding availability; the eligibility of previously negotiated contracts for discounts; technology inventory-assessment requirements; and the date that funding for the discount program will start. A schools and libraries discount matrix is included that indicates urban and rural discounts at various poverty levels. (TD)

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Keypoints from the FCC's Universal Service Report and Order
Section X: Schools and Libraries
May 8, 1997

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¶ 425 All eligible schools and libraries will receive discounts of between 20-90% on all telecommunications services, Internet access, and internal connections provided by telecommunications carriers subject to a $2.25 billion annual cap.

¶432 Schools and libraries are free to choose the telecommunications services for which they will receive discounts.

¶434 Schools and libraries may select from any commercially available telecommunications service

¶434 Any state preferring to target a narrower or broader set of services may make state funds available to schools or libraries that purchase those services.

¶443 The schools and libraries discount program will only become effective in states that set intrastate discounts that match the interstate discounts.

¶445 Schools and libraries are granted discounts on access to the Internet but not on separate charges for proprietary content or other information services. They are not permitted to purchase a discounted package including "content" and "conduit" (access) to the Internet, unless the bundled package includes minimal content and it is a more cost-effective alternative than purchasing "conduit" alone.

¶446 If it is more cost-effective to purchase Internet access provided by a telecommunications carrier that bundles a minimal amount of content with Internet access, a school or library may purchase that bundled package and receive support for that portion of the package price that represents the price of access alone.

¶449 Any telecommunications or information service provider--even one that does not qualify as an "eligible telecommunications carrier" for purposes of universal service -- may be eligible for support for services provided to schools and libraries.

¶450 Installation and maintenance of internal school and library connections, i.e., inside wiring, are specifically included as discountable services.

¶458 Wireless and wired technologies are equally eligible for the discount program. The school/library determines the transmission mode.

¶460 Discounts can be provided for networking equipment which is needed to transport information to individual classrooms. This includes items such as routers, hubs, network file servers, and wireless LANs, including their installation and basic

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maintenance. Operating software for file servers is also included as a discountable item. Personal computers (unless used as a file server), modems, fax machines--and asbestos removal--are specifically excluded.

¶467 Schools and libraries are required to seek competitive bids for all services eligible for discounts.

¶467 The pre-discount price is the price for services charged to schools and libraries prior to the application of a discount

¶468 A trigger mechanism allows for a hold to be put on Universal Service Funds at the point at which $2 billion in expenditures are approved. Priority rules would cover the availability of the remaining $250 M.

¶476/ ¶478 Schools and libraries are encouraged to aggregate their demand through the creation of consortiums (¶476), however, only consortia including other eligible schools and libraries, rural health care providers, and public sector (governmental) customers are eligible for discounts. Eligible schools and libraries participating in consortia that include **ineligible** private sector members will not be eligible to receive USF discounts unless the pre-discount prices of any interstate services that such consortia receive from ILECs are generally tariffed rates. This exception allows for the eligibility of state networks, for instance, to receive discounts.¶478

¶481 Price should be the primary (but not sole) factor in selecting a bid. Other factors might include prior experience, including past performance; personnel qualifications, including technical excellence; management capability, including schedule compliance, and environmental objectives. Cost-effectiveness should be insured

¶484 It is required that a carrier offer services to eligible schools and libraries at a price no higher than the lowest price it charges to similarly situated non-residential customers for similar services. This is called the "lowest corresponding price".

¶485 The lowest corresponding price is the upper limit on the price (under contract or under tariff) that carriers can charge schools and libraries in competitive or non-competitive markets. Eligible schools and libraries can take advantage of any cost-based rates that other customers may have negotiated with carriers.

¶487 Geographic service area is defined as the area in which a telecommunications carrier is seeking to serve customers with any of its services . Telecommunications carriers are required to offer schools and libraries services at their lowest corresponding prices throughout their geographic service area.

¶487 As a condition of receiving support, carriers are required to certify that the price they offer to schools and libraries is no greater than the lowest corresponding price based on the prices the carrier has previously charged or is currently charging in the market.

¶488 A provider of telecommunications services, Internet access, or internal connections need not offer the same lowest corresponding price to different schools and libraries in the same geographic service area if they are not similarly situated and subscribing to a similar set of services.

¶496 The May 8 Order affirms that percentage discount levels should be more sensitive to how disadvantaged a school or library is than whether it is located in a high cost service area.

¶494 Although the discount matrices adopted do not make the prices schools and libraries pay for telecommunications services in high and low cost areas identical, the Order found that the matrices distributed substantially more funds, particularly on a per-capita basis, to reduce prices paid by schools and libraries in areas with higher telecommunications prices than they do to reduce prices in areas in which such prices are already relatively low. The greater price reduction in terms of total dollar amounts for schools and libraries in high cost areas results primarily because the discount rates are based on percentages that lead proportionally to more funds flowing to those schools and libraries facing proportionally higher prices.

¶496 The FCC concludes that "the additional support for schools and libraries in high cost areas provided in the matrices we adopt is appropriate and necessary to ensure affordable access to schools and libraries."

¶504 The use of ARMIS/NECA data in determining the breakdown for low, mid-, and high cost areas was abandoned in favor of a simple urban-rural dichotomy where high cost schools and libraries are defined as those located in rural areas and low-cost schools are defined as those located in urban areas.

¶504 For purposes of the discount program, rural schools are defined as those in counties located outside a Metropolitan Statistical Area, adjusted by the most currently available Goldsmith Modification, which identifies rural areas within large metropolitan counties.

¶510 A school may use either an actual count of students eligible for the national school lunch program or federally-approved alternative mechanisms contained in Title I (IASA) to determine the level of poverty for purposes of the universal service discount program.

¶513 A library's level of poverty will be calculated on the basis of school lunch eligibility in the **public** school district in which the library is located.

¶515 Where a library is located in a town without a school, the library would base its data on the average of the percentage of students eligible for the school lunch program in each of the districts in which the town's children attend school.

¶520 The Schools and Libraries Discount Matrix is as follows:

How Disadvantaged?		Discount Level	
% of students eligible for national school lunch program	Estimated % of US schools in category	Urban Discount (%)	Rural Discount (%)
<1	3	20	25
1-19	31	40	50
20-34	19	50	60
35-49	15	60	70
50-74	16	80	80
75-100	16	90	90

¶523 The procurement officer for each school district or state applicant must certify to the universal service administrator the percentage of students in each of its schools that is eligible for the national school lunch program.

¶523 The school district or state may decide to compute the discounts on an individual school basis or it may decide to compute an average discount; in either case, the state or school district shall strive to ensure that each school receives the full benefit of the discount to which it is entitled.

¶524 Libraries will be able to compute discounts on either an individual branch basis or based on an average of all branches within the system.

¶529 If the annual cap of $2.25 B is not reached due to limited demand from eligible schools and libraries, the unspent funds will be available to support discounts for schools and libraries in subsequent years, except for the period of January 1 - June 30, 1998, in which the administrator will only collect as much as required by demand but in no case more than $1B.

¶529 If less than $2.25B is spent in calendar year 1998, then no more than half of the unused portion shall be spent in calendar year 1999. Similarly, if the amount allocated in calendar years 1998 and 1999 is not spent, no more than half of the unused portion for these two years will be spent in calendar year 2000.

¶532 The administrator will be directed to collect $100 million per month for the first three months of 1998 and to adjust future contribution assessments quarterly.

¶535 Funding requests will be accepted beginning on July 1 for the following year.

¶536 The administrator will track non-recurring expenditures for eligible schools and libraries, such as for internal connection services, and recurring flat-rate charges for telecommunications services, plus the estimated variable usage charges. The administrator will then measure financial commitments against the funding caps and trigger points.

¶538 If the administrator estimates that the $2.25 billion cap will be reached for the current funding year, it shall recommend to the FCC a reduction in the guaranteed percentage (except those in the two most disadvantaged categories) necessary to permit all expected requests in the next funding year to be fully funded.

¶538 At the point that only $250 M in universal service funds are available in a given funding year, only those schools and libraries that are most economically disadvantaged and have not yet received discounts from the USF in the previous year would be granted guaranteed funds, until the cap is reached.

¶544 While eligible schools and libraries should be able to enter into prepaid/multi-year contracts, the administrator will only commit funds to cover the current funding year.

¶545 Schools and libraries will be able to receive discounts on contracts negotiated prior to the Joint Board's recommendation (November 8, 1996). Such contracts cannot be voluntarily extended without rebidding.

¶550 Discounts will be provided through the Univeral Service Fund for eligible schools and libraries on both **interstate and intrastate services**. States will be required to establish intrastate discounts at least equal to the discounts on interstate services as a

condition of federal universal service support for schools and libraries in that state.

¶551 States are permitted to provide greater discounts or discounts for additional services for schools and to fund that support through intrastate support mechanisms.

¶551 States may choose to prohibit schools and libraries from purchasing services at special state-supported rates if the schools/libraries intend to secure federal-supported discounts

¶552 To be eligible schools and libraries must meet the statutory definition of an elementary or secondary school found in the Elementary and Secondary Education Act of 1965, must not operate as a for profit business, and must not have an endowment exceeding $50 million.

¶552 To be eligible a library or library consortium must be eligible for assistance from a State library administrative agency under the Library Services and Technology Act and must not operate as a for-profit business.

¶552 Discounted services must be used for "educational purposes".

¶558 Because institutions of higher education are not eligible for universal service support, an academic library will be eligible only if its funding is independent of the funding of any institution of higher education.

¶562 Entities not explicitly eligible for support should not be permitted to gain eligibility for discounts by participating in consortia with those who are eligible.

¶566 Telecommunications services and network capacity provided [to schools or libraries at a discount] may not be sold, resold, or otherwise transferred by such user in consideration for money or any other thing of value.

¶571 The administrator, after receiving recommendations submitted by the Department of Education, will select a subcontractor to manage exclusively the application process for eligible schools and libraries, including dissemination and review of applications for service and maintenance of the website on which applications for service will be posted for competitive bidding by carriers.

¶572 School and library applications will be required to include a technology inventory/assessment, including,at a minimum,the following information:

(1) the computer equipment currently available or budgeted for purchase for the current, next, or other future academic years, as well as whether the computers have modems and, if so, what speed modems;
(2) the internal connections, if any, that the school or library already has in place or has budgeted to install in the current, next, or future academic years, or any specific plans relating to voluntary installation of internal connections;
(3) the computer software necessary to communicate with other computers over an internal network and over the public telecommunications network currently available or budgeted for purchase for the current, next, or future academic years;
(4) the experience of and training received by the relevant staff in the use of the equipment to be connected to the telecommunications network and training programs for which funds are committed for the current, next, or future academic years;
(5) existing or budgeted maintenance contracts to maintain computers; and
(6) the capacity of the school/library's electrical system to handle simultaneous uses.

¶574 Independent approval of each applicant's technology plan will be required, ideally by a state agency that regulates schools or libraries.

¶574 Schools and libraries will be required to certify that they have funds committed for the current funding year to meet their financial obligations set out in their technology plans.

¶575 Applications will be required to describe the services that the schools and libraries seek to purchase in sufficient detail to enable potential providers to formulate bids.

¶575 Once the subcontractor selected by the administrator receives an application and finds it complete, the subcontractor will post the application, including the description of the services sought on a website for all potential competing service providers to review and submit bids in response, as if they were requests for proposals (RFPs).

¶575 While schools and libraries may submit formal and detailed RFPs to be posted, they will also be permitted to submit less formal descriptions of services, provided sufficient detail is included to allow providers to reasonably evaluate the requests and submit bids.

¶576 Schools and libraries will be required to submit the percentage of their students eligible for the national school lunch program and libraries will submit the percentage of students eligible for the national school lunch program in the school districts in which they are located to the administrator's subcontractor, in order to enable the administrator to calculate the amount of the applicable discount.

¶577 The person authorized to order telecommunications for the school or library will be required to certify the following under oath:

(1) the school or library is an eligible entity under sections 254(h)(4) and 254(h)(5) and the rules adopted herein;
(2) the services requested will be used solely for educational purposes;
(3) the services will not be sold, resold, or transferred in consideration for money or any other thing of value;
(4) if the services are being purchased as part of an aggregated purchase with other entities, the identities of all co-purchasers and the services or portion of the services being purchased by the school or library;
(5) all of the necessary funding in the current funding year has been budgeted and will have been approved to pay for the "non-discount" portion of requested connections and services as well as any necessary hardware, software, and to undertake the necessary staff training required in time to use the services effectively; and
(6) they have complied, and will continue to comply, with all applicable state and local procurement processes.

¶579 To permit all interested parties to respond to those posted requests, applicants will be required to wait four weeks after a description of the services they seek has been posted on the school and library website, before they sign any binding contracts for discounted services. Once they have signed a contract for discounted services, the applicant (school, library, or consortium including such entities) shall send a copy of that contract to the administrator's subcontractor with an estimate of the funds that it expects to need for the current funding year as well what it estimates it will request for the following funding year. Assuming that there are sufficient funds remaining to be committed, the subcontractor shall commit the necessary funds for the future use of the particular requestor and notify the requestor that its funding has been approved.

¶581 The FCC, in consultation with the Department of Education, will engage and direct an independent auditor to conduct such random audits of schools and libraries as may be necessary.

¶586 Service providers, rather than schools and libraries, will seek compensation from the universal service administrator.

¶590 Non-telecommunications carriers will be eligible to provide the supported non-telecommunications services to schools and libraries at a discount.

¶597 Both telecommunications carriers and non-telecommunications carriers are permitted to collect universal service support for discounted Internet access and internal connections to schools and libraries.

¶599 Non-telecommunications carriers are not required to contribute to the universal service fund but they are entitled to reimbursement for the amount of the discount to eligible schools and libraries.

¶601 Section 706 directs the FCC and the states to "encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans (including, in particular, elementary and secondary schools and classrooms)". The FCC will initiate a Notice of Inquiry within 30 months after enactment of the 1996 Act, i.e., by August 8, 1998, and will complete the inquiry within 180 days of its initiation.

¶607 Funding for the schools and libraries discount program will begin to flow on January 1, 1998.